

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SPB 2506

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Correctional Medical Authority

DATE: February 4, 2020 REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|-----------|----------------|-----------|--------------------|
| 1. Howard | Kynoch | | Pre-meeting |

I. Summary:

SPB 2506 transfers the administrative authority for the Correctional Medical Authority from the Executive Office of the Governor to the Department of Health. The bill provides for a type two transfer, as defined in s. 20.06(02), Florida Statutes.

The Department of Health will provide administrative support services, including purchasing, personnel, general services, and budgetary matters.

The bill has a negative fiscal impact on the Department of Health. A transfer of six full-time equivalents (FTEs) and \$748,674 in recurring General Revenue from the Executive Office of the Governor to the Department of Health is needed to cover operating costs for the Correctional Medical Authority.

The bill takes effect July 1, 2020.

II. Present Situation:

Sections 945.601 through 945.6035, Florida Statutes, defines the Correctional Medical Authority (CMA), its membership, powers, and duties. The statutory purpose of the CMA is to assist in the delivery of health care services for inmates in the Department of Corrections (FDC) by:

- Advising the Secretary of Corrections on the professional conduct of primary, convalescent, dental, and mental health care and the management of costs consistent with quality care;
- Advising the Governor and the Legislature on the status of the FDC's health care delivery system; and
- Assuring that adequate standards of physical and mental health care for inmates are maintained at all Department of Corrections institutions.

The CMA primarily accomplishes these duties by conducting surveys of the physical and mental health care system at each correctional institution, reporting the survey findings to the FDC

Secretary, and monitoring the FDC's implementation of corrective actions that have been taken at each institution to address deficiencies.

History

The Correctional Medical Authority (CMA) was created by the Legislature in 1986 and initially housed in the Department of Corrections,¹ while Florida's prison health care system was under the jurisdiction of the federal court as a result of litigation that began in 1972. *Costello v. Wainwright* (430 U.S. 57 (1977)) was a class-action lawsuit brought by inmates alleging that their constitutional rights had been violated by inadequate medical care, insufficient staffing, overcrowding, and poor sanitation. The Florida Legislature enacted legislation that created the CMA based on recommendations of a special master and court Monitor, appointed by the federal courts to ensure that an "independent medical authority, designed to perform the oversight and monitoring functions that the court had exercised" be established.² On July 1, 1997, the Correctional Medical Authority was assigned to the Department of Health.³

From 1986, the CMA carried out its mission to monitor and promote the delivery of cost-effective health care that met accepted community standards for Florida's inmates until losing its funding on July 1, 2011. During the 2011 Legislative Session, House Bill 5305 repealed statutes related to the CMA and funding for the agency, was eliminated. However, the Governor vetoed the bill⁴ and requested that the agency's funding be restored. During the 2012 Regular Legislative Session, Senate Bill 1958 was passed and subsequently signed into law by the Governor. The bill transferred the CMA from the Department of Health to the Executive Office of the Governor.⁵

Governing Board

Currently, the CMA is composed of a seven member Governing Board whose members are appointed by the Governor and confirmed by the Florida Senate for a term of four years.⁶ One member must be a member of the Florida Hospital Association and one member must be a member of the Florida Medical Association. At least one member must be a physician licensed under chapter 458, F.S., and one member may be a physician licensed under chapter 458, F.S., or chapter 459, F.S. At least two other members must have had at least five years' experience in health care administration. At least one member must have at least five years' experience in the identification and treatment of mental disorders. At least one member must be a dentist licensed under chapter 466, F.S., and have at least five years' experience in the practice of dentistry, and at least one member must be a nurse licensed under part I of chapter 464, F.S., and have at least five years' experience in the practice of nursing. The board directs the activities of the CMA's staff.

¹ Ch. 86-183, L.O.F.

² *Celestino V. Singletary*. United States District Court. 30 Mar. 1993. Print.

³ Ch. 97-237, L.O.F.

⁴ Veto message HJ 8

⁵ Ch. 2012-122, L.O.F.

⁶ Section 945.602, F.S.

Statutory Responsibilities

The CMA has the authority to:⁷

- Review and advise the FDC Secretary on cost containment measures the FDC could implement;
- Review and make recommendations regarding health care for the delivery of health care;
- Develop and recommend to the Governor and the Legislature an annual budget for all or part of the operation of the State of Florida prison health care system;
- Review and advise the FDC Secretary on contracts for quality management programs;
- Review and advise the FDC Secretary on minimum standards needed to ensure that an adequate physical and mental health care delivery system is maintained by the FDC;
- Review and advise the FDC Secretary on the sufficiency, adequacy, and effectiveness of the FDC's Office of Health Services' quality management program;
- Review and advise the FDC Secretary on the projected medical needs of the inmate population and the types of programs and resources required to meet such needs;
- Review and advise the FDC Secretary on the adequacy of preservice, in-service, and continuing medical education programs for all health care personnel and, if necessary, recommend changes to such programs;
- Identify and recommend to the FDC Secretary the professional incentives required to attract and retain qualified professional health care staff within the prison health care system;
- Coordinate the development of prospective payment arrangements as described in s. 408.50, F.S., when appropriate for the acquisition of inmate health care services;
- Review the FDC health services plan and advise the FDC Secretary on its implementation.
- Sue and be sued in its own name and plead and be impleaded;
- Make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions;
- Employ or contract with health care providers, medical personnel, management consultants, consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and other such entities as may be necessary to carry out the mandates of the CMA and fix their compensation; and
- Recommend to the Legislature such performance and financial audits of the Office of Health Services in the FDC as the authority considers advisable.

The CMA is required to:

- Annually report to the Governor and the Legislature the status of the FDC's health care delivery system. The report must include, but is not limited to:⁸
 - Recommendations regarding cost containment measures the FDC could implement; and
 - Recommendations regarding performance and financial audits of FDC's Office of Health Services.
 - Conduct surveys of the physical and mental health care system at each correctional institution at least triennially and report the survey findings for each institution to the FDC Secretary, and monitor FDC's implementation of corrective actions that have been taken at each institution to address deficiencies.

⁷ 945.603, F.S.

⁸ 945.6031, F.S.

- Appoint a medical review committee pursuant to s. 766.101, F.S., to provide oversight for the FDC's inmate health care quality management program, designate one of its members to serve on the FDC's medical review committee, and review amendments to the FDC's inmate health care quality management program prior to implementation.

Staffing and Appropriation

Currently, the CMA staff consists of six full-time positions and utilizes independent contractors to complete triennial health care surveys at each of Florida's correctional institutions. Survey reports are followed by monitoring of corrective action plans by the CMA until the facilities are in compliance with accepted community standards.

Currently, the CMA's budget is appropriated from the General Revenue Fund and consists of \$494,530, in Salaries and Benefits, \$101,373 in Expenses, and \$152,771 in Contracted Services for a total budget of \$748,674.

III. Effect of Proposed Changes:

The bill transfers the administrative authority for the Correctional Medical Authority from the Executive Office of the Governor to the Department of Health. The Department of Health will provide administrative support services, including purchasing, personnel, general services, and budgetary matters. This authority is not subject to control, supervision, or direction by the Department of Health.

This transfer includes all powers, duties, functions, records, offices, personnel, associated administrative support positions, property pending issues, existing contracts, administrative authority, and administrative rules relating to the State of Florida Correctional Medical Authority. The bill provides for a type two transfer as defined in s. 20.06(2).

This bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

A transfer of six positions and the existing base budget for the CMA will be needed from the Executive Office of the Governor to the Department of Health to continue the operations of the CMA. This includes \$494,530 from the Salaries and Benefits category, \$101,373 from the Expense category, and \$152,771 from the Contracted Services category.

The Department of Health will provide administrative support services, including purchasing, personnel, general services, and budgetary matters. The department can absorb the costs associated with providing these services from within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Rule-making authority is transferred to the Department of Health from the Executive Office of the Governor.

VIII. Statutes Affected:

This bill substantially amends section 945.602 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
